

SPECIAL CIVIL APPLICATION NO.2374 OF 1995

CORAM ; N N MATHUR, J.

(November, 18, 1995)

ORAL ORDER

This Special Civil Application has been filed by the Union of India, seeking direction against the Motor Accident Claims Tribunal, Mehsana not to proceed with the execution of the Misc. Civil Application No.17 of 1994 until the proceedings of the Special Leave Petition pending before the Supreme Court is concluded.

2. The short facts involved in this matter are that the Motor Accident Tribunal, Mehsana passed the Award dated 1.7.1991 holding all the original opponents jointly and severally liable to pay the awarded amount. Apportionment was made against the Union of India to the extent of 20% and against the Truck owner and the Insurance Company to the extent of 80%. The Insurance Company, i.e. the United Insurance Co. preferred Appeal against the said award before this Court, which has been registered as First Appeal No.102/92. It is also stated in the said First Appeal that stay has been granted in favour of the Insurance Company stayinig the recovery of the amount to the extent of Rs.1,50,000/-. The Union of India, at the initial stage, as per the legal advice, decided not to prefer appeal. However, as the appeal is preferred by the Insurance Company, the Union of India also filed appeal as in case the appeal of the Insurance Company is allowed, the liability may be shifted to the Union of India. Thus, the Union of India filed appeal being stamp No.6313/92 along with application for condonation of delay. The High Court refused to condone the delay and rejected the application by order dated 6.8.1993 . It is stated that the Union of India has filed SLP before the Supreme Court against the order of this Court dated 6.8.1993 and notice has been issued thereon.

2. The grievance of the petitioner is that inspite of the fact that the matter is pending before the Supreme Court and the notice has been issued, the Motor Accident Claims Tribunal has passed order in Misc.Civil Application No.40/92, whereby recovery certificate has been directed to be issued. In my view, there is no substance in the contention. Simply because a notice has been issued, there cannot be any stay on the execution. It further appears that though this Court rejected the application for condonation of delay on 6.8.1993, the Union of India has preferred SLP in the year 1985. It may also be stated that the Supreme Court is seized with the matter and the prayer which has been made in this Special Civil Application can be made before

the Supreme Court in the said SLP.

3. In view of the aforesaid, there is no merit in this petition and the same is accordingly rejected. Notice discharged.

Date: 18.11.1995

(N N MATHUR, J.)